




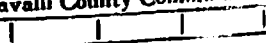
## RAVALLI COUNTY ATTORNEY

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**TO:** Commissioners  
**CC:** Planning Office  
**FROM:** Alex Beal, Deputy   
**DATE:** February 14, 2007  
**RE:** Sale of Golf Course Land

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Ravalli County Commissioners  


Pursuant to Alan Thompson's request, I have looked into the possibility of selling off two 2+ acre lots on the extremities of the back nine of the golf course. It is my understanding that these parcels are currently unused. The proceeds of the sale are desired to go towards renovations and modifications of the course's irrigation system. I found the following items to be significant, and conclude that such a sale is not feasible.

### Lease

The Golf Course is governed by a lease that began in 2000 and runs until 2010. The purchasers of the land would be forced to allow the golf course to continue using the land until 2010 unless the Golf Course members voted to allow the lease to be amended to exclude those parcels. As such, any sale will require approval from the membership. That said, MCA § 7-8-2231(2)(a) (1999) the statute in force at the time the lease was made, required that "all such property must be leased subject to sale by the board [of county commissioners]." I am unable to find such a provision in the lease, thus the lease would appear to be in violation of Montana law.

### Sales of County Land in General

The BCC are generally empowered to sell lands that are "not necessary to the conduct of county business" MCA § 7-8-2211, so long as at least 20% of the

purchase price is received upfront, and any time payments be completed within 5 years with a rate of interest set at 6%, payable annually. MCA § 7-8-2213.

Assuming that the properties are valued in excess of \$2,500, the sale must be at public auction after notice by publication. MCA § 7-8-2212. Should no one bid on the properties at public auction, they could be sold at a later private sale, but in any event not for less than 70% of the appraised value. MCA § 7-8-2218. The proceeds of the sale “may be credited to any account that is in the best interest of the county.” MCA § 7-8-2220.

### **Terms of County Ownership of Golf Course**

I noted in the file an agreement between Ravalli County and the “Montana Department of Fish and Game” whom I believe is the forerunner of Fish, Wildlife and Parks (FWP). The plan called for the reimbursement of 50% of allowable construction costs from the US government pursuant to the “Land and Water Conservation Fund Act of 1965.” Paragraph 9 of that agreement states that:

“9. The County further agrees that if property acquired or developed under this agreement is converted to other than public outdoor recreational uses without approval of the Department the County shall substitute for the converted areas or facilities other outdoor recreation properties or improvement of at least equal fair market value and of reasonable equivalent usefulness and location. Replacement property shall be approved by the [United States] Department [of the Interior].”

I read that contract to mean that we would need to provide some equivalent amount, in fair market value, of open space, fishing accesses, etc...

Additionally, the “LAND AND WATER CONVERATION FUND PROJECT AGREEMENT” which laid out the Federal Government’s terms, which we accepted, states that we agree that should we breach the agreement, the US is entitled to specific performance. At ¶ E4. Additionally, the agreement states that we may not convert any property to private use without the permission of the US Department of Interior. At ¶ I1. This likely means that the US, not just FWP, could hold us to the requirement that we set aside land of equal fair market value, and potentially even block any sale made.

I have placed a call to Lee Bastian, the Regional Parks Manager of FWP to get their thoughts on this matter and to ask if they have any recent familiarity with these agreements.

### **Conclusion**

While the BCC is generally empowered to sell county lands, this case would appear to be the exception. It appears possible that a sale would be legally

impossible. It also appears likely that even if we could sell the lands, we would have to use all the money to buy more park land. I will continue to research this matter and let you know as soon as I have a definitive answer, but it appears very likely that this is a dead end as a revenue source for the golf course.